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**Board Meeting – February 11, 2013**

**21<sup>st</sup> Floor – Conference Room 1**

**Present Board Members:**

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability (MB)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Mark Trivett, Member (MT)
- and
- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

**Members Not Present:**

- Carol Steinberg, Member (CS)
- Andrew Bedar, Member (AB)
- Gerald LeBlanc, Member (GL)

1) **Incoming:** Proposed Ice Cream Café and Roof deck, 5 Bellevue St., West Roxbury (V13-015)

TH - EXHIBIT – variance application (Exhibit 1)

- rebuild of tenant space
- spending over 30%, and change of use for proposed roof deck
- roof deck has seating for 34
- 3 tables at first floor

DM - deny based on lack of proof of cost

TH - \$29,000 for elevator

- very tight at the first floor

*MB - second – carries*

2) Incoming: Dormitory Building & Dining Hall, Smith College, 93 Elm St., Northampton (V13-021)

TH - EXHIBIT – variance application

- existing 3 story
- reconstruction and addition
- spending over 30%
- seeking two variances, 27.3, nosings, at existing stairs; 26.6.3, pull side clearances at various doors
- filling in open risers at Stairs 1 & 3 and glass enclosures
- asking for relief at doors to Stairways 2 & 4 due to lack of pull side clearance within stairway

*MB - grant for 26.6.3, based on exc. cost without benefit*

*MT - second – carries*

TH - nosings are abrupt where the stairs are being filled in

MB – ask what the plan for the install is going to be

TH - drawing shows the install of the stair fillers

*MB - grant 27.3, based on technological infeasibility*

*DM - second - carries*

3) Incoming: Royal Tie Spa, 544 Cambridge St., Cambridge (V13-018)

TH - EXHIBIT – variance application

- project creating 3 treatment room
- change in level at entrance is two steps
- spending \$29,300.00, value of the building is \$192,100.00, not spending over 30% or \$100,000.00, so unsure of jurisdiction

*MB - no variance needed pending check spending and building value to verify that no jurisdiction*

*MT - second – carries*

4) Incoming: Retail Tenant Space, 24 Main St., Unit 2D, Gardner (V13-012)

TH - EXHIBIT – variance application

- outfitted by tenant for women's handbag and apparel store
- new accessible toilet room and dressing room
- work performed issue, 3.3.1a
- variance is to 33.6.1, regarding the dressing room seat size
- 24" x 48" required by 521 CMR; 20 5/8" x 42" provided
- meet ADA requirements

*MT* - grant  
*DM* - second – carries

5) Incoming: McKinlock Hall, Harvard University, 8 Mill St., Cambridge (V13-014)

TH - EXHIBIT – variance application  
- vintage Harvard building  
- variances for certain entrances  
- 4 accessible entrances, 3 inaccessible  
- proposing concrete walkways to the entrances  
- the three proposed inaccessible entrances have interior and exterior stairs

*MB* - grant 25.1, based on impracticable  
*DM* - second – carries

TH - existing staircases and stairs, proposing compliant wall side handrail and noncompliant interior handrail

*MB* - grant as proposed  
*DM* - second – carries

TH - private dining areas  
- two areas that are accessible, one that is not based on existing stairs

*MB* - grant as proposed, on the condition that written policy is submitted regarding use of the room, how the space is reserve  
*DM* - second – carries

6) Incoming: Northeast corner of Main and Broadway, Andover (V13-011)

TH - EXHIBIT – variance application  
- bridge profile increasing 2 feet  
- existing sidewalk is 7%, increasing to 8%  
- seeking variance for 521 CMR 22.3  
- work not yet begun  
- to create a 5% walkway would require land and building takings

*MB* - grant as proposed, based on both cost and impracticability  
*RG* - second – carries

7) Incoming: Pond Plain Improvement Assoc., 330 Pond St., Weymouth (V13-020)

TH - EXHIBIT – variance application  
- Wood frame two-story building that is used as community building  
- 1820's building  
- multi-use building  
- winter of 2010-11 roof collapsed and walls started to lean out

- spending \$250,000.00 value is \$144,900.00, over 30%
- existing exterior platform level that currently serves the upper level
- will remain in place until the interior 3-stop lift is installed
- seeking a time variance, but didn't set a specific time frame

MB - 9 months to a year?

TH - did also receive a letter from the building inspector  
 - in support of variance  
 - permit not issued until variance applied for

*DM - grant until March 1, 2014 for the installation of the proposed lift*

*RG - second*

*MB - progress reports*

*DM - every three months, starting June 1, 2013*

*RG - accept addition to variance*

*- carries*

8) Incoming: Fogg Library, 1 Columbian St., Weymouth (V13-023)

TH - EXHIBIT – variance application  
 - three-story building with walk-out basement  
 - renovation to basement level and community meeting rooms  
 - spending over 30%  
 - did repointing in 2010 that was over 30%, required a variance then  
 - taking an accessible entrance into the basement  
 - seeking relief for historic entrances

*MB - grant as proposed*

*DM - second – carries*

9) Incoming: One Thong Chai, 12 Post Office Ave., Andover (V13-013)

TH - EXHIBIT – variance application  
 - total remodel of space  
 - spending \$85,000.00, need some more information on overall cost of building

*DM - continue for more information*

*RG - second – carries*

10) Incoming Discussion: Press Box at Dennis-Yarmouth Regional High School, Yarmouth (V10-151)

TH - issued amended notice of action on 12/21/12, regarding  
 - gave 2/1/13 date for submittal of contract, canceled check and timeframe for installation of lift  
 - not yet submitted

*DM - shut down the use of the press box immediately until information received*

*MB - second – carries*

TH - will notify the building department that they are coming to post the press box as closed

11) Incoming: Sidewalks, 385 Bunker Hill St., Charlestown (V13-022)

TH - EXHIBIT – variance application

- variance for sidewalk slope

- new 3 family building with parking underneath

- seeking variance to grade (22.3.1), but no slopes given

- no jurisdiction of slope at driveway, but the walkway running slopes do not comply

MB - look like cross slopes don't comply

*DM - grant as proposed*

*MB - second – carries*

12) Discussion: Laconia Lofts, Boston

TH - email from Beth McLaughlin

- Carrie received a call from attorney for Laconia Lofts noting that the complainant was moved to a nursing home and no longer needed the parking space in question

DM - she still owns the condo

TH - issue does not go away for this building, may be another tenant that needs an accessible space, was required to be capable of complying with the requirements of accessible parking since originally built

TH - got a call from new owner of the condo for Melrose case where they were required to hold the unit until the garage built; Building Inspector holding occupancy permit for the unit  
- this was on the deed for the building

*MB - motion to continue with the suit for Laconia Lofts*

*DM - second – carries*

*No Walter*

*MB - the motion is based on the fact that the case is based on compliance with the building code and not a case based on an individual owner, this is now a matter of the board and the board's case*

*MT - new construction and had to comply at the time*

*MT - second –*

*Walter back*

- *motion carries*

13) Advisory Opinion: Woodland Center, 455 State Rd., Vineyard Haven

TH - two-story building  
- retail at first floor  
- 9 storage spaces at the basement  
- 3 storage spaces for the retail above, accessed via stairs  
- owner has sold some of the storage spaces at the basement for other businesses in town  
- submitted a few affidavits  
- but would need some more affidavits

MB - rented to other businesses for storage, not a personal storage space

TH - yes  
- one is for alarm system company, one for hospice company

*DM - affidavits for all renters of the storage spaces*

*MT - second – carries*

\*\*\* *Carol Steinberg now present* \*\*\*

14) Incoming: Church, 53 Erie St., Boston (V13-001)

TH - EXHIBIT – variance application  
- been ongoing since beginning of January  
- bathroom that was built that was 5’6” x 5’; two-door vestibule that doesn’t comply with the required depth  
- reminded them both again about notifying the required parties  
- 2/5/13 dropped off another application and another check  
- reverend stated that they are spending over \$100,000.00

MB - building permit issued yet?

TH - no being held up by ISD  
- been going on since April 2012

*DM - deny*

*MB - second –*

*DM - deny until there are details and clarity for the variance to go forward*  
*- carries with CS abstaining*

15) Incoming: Dramatics, 402 West Cedar St., West Bridgewater (C12-075 and V13-000)

TH - new construction of single story hair salon  
- complaint by William Shine of Independence Associates  
- all of the cited items will be brought into compliance except for the running slope of the slope down sidewalk (9.3 and 9.7%)  
- EXHIBIT – variance application

*DM - grant for the ramp*

*MT - second – carries with CS opposed*

*DM - find in favor of the complainant for parking*

*MB - second – carries*

*DM - clarified as compliant by 5/1/13*

*CS - second – carries*

16) Incoming: North Bennet Street School, 150 North St., Boston (V13-016)

TH - EXHIBIT – variance application  
- renovation of existing 1932 building, 3 story formally used as school  
- now a technical school  
- spending over 30%  
- making a fully compliant front and rear entrances  
- elevator in the building  
- variance for 3 existing stair towers, nosings and interior handrails, wall side handrail proposed  
- one fully compliant stair tower is being constructed

*DM - grant as proposed*

*MB - second – carries*

17) Hearing: Waverly Commuter Rail Station, 525 Trapelo Rd., Belmont (C12-033)

WW - called to order at 11:05 a.m.  
- introduce the Board

Mark Dempsey, Compliance Officer for the AAB (MD)

Andrew Baldwin, PLT (AB)

Diane Rubin, PLT (DR)

Marie Trottier, MBTA (MT)

Andre Martecchini, Kleinfelder (AM)

WW - MD, MT, and AM sworn in  
- EXHIBIT 1, AAB1-38

MD - received notice regarding work performed at the station in March 2012

- staff generated complaint filed
- after lack of response, hearing scheduled
- originally scheduled for 10/29/12; at request of Prince Lobel Tye, hearing was rescheduled to 2/11/13
- no access to the platforms or at the platforms

DR - since complaint was filed, engaged council to work with MT and the design engineers for the project

WW - would MBTA agree that complaints are valid?

DR - preference would be that testimony given to review that access was not looked at until after

WW - can't request variances until form received

DR - not technically feasible to comply

MD - copies of information emailed to the Board

WW - submittal of packet from Prince Lobel, dated February 7, 2013, EXHIBIT 2

MB - was work performed at this station

DR - yes

MB - work was done at the platforms at the station

AM - yes

MB - building permits issued in amount of \$353,280.71

DR - sounds approximately correct

MB - value of the station prior to the work was \$44,000.00

AB - yes

MB - prior to the work taking place was variance submitted?

DR - no

MB - was accessibility incorporated into this project

DR - no

AM - what was done, was a tactile warning strip along the edge of the platform

*MB - based on that testimony, find in favor of the Complainant*

*DM - second*

*CS - station is accessible reference in the project?*

*DR – can get to the station but not to the platform*

*- carries*



KS - need date for compliance or variance application submitted by certain date since just a complaint and not a variance hearing

CS - would like to hear what they have to say

KS - can't there is not a variance application before us

*DM - variance application by March 15, 2013*

*MB - second – carries*

*MB - based on the complaint packet and AAB17, notification in writing to the access board, look into all of the station listed in said letter to determine if access was required at those stations: B, C, D and Mattapan Line stations, and Mattapan Line; as well as Mansfield and Oak Grove commuter Rail Stations*

*DM - second – carries*

DR - don't believe complaints filed at these stations

WW - no want to have staff contact the person that wrote the letter and follow-up to review these stations in question

MT - T will deal with it first

MB - can't ignore this letter sent to the AAB

- group of advocates stated that Mattapan Line rebuilt inaccessible

- Board has been informed that work done at those stations and need to reach out to the MBTA as well

18) Incoming Discussion: Newman Elementary School, 1155 Central Ave., Needham (V12-245)

TH - Town of Needham writes to the Board for direct guidance on playground surfaces

- require a route around the playground and to each play element

- submitted a letter on 1/23/13 written by Patricia Carey, CPRC Director for Needham Parks and Recreation

- follow-up documentation stating that they need specific guidelines to route

- just need route to the playground and the play elements

MB - loose fill is probably cheaper

- but loose rubber fill is no different than wood chips

- hybrid is simply using the poured surface and the loose rubber and engineered wood fill

*MT - need to review the examples of the three proposed items*

*MB - second – carries*

19) Discussion: Charles Playhouse, 74 Warrenton St., Boston (V12-263)

TH - 12/17/12 hearing

- based on decision from said hearing, Petitioners submitted written policy regarding ticketing and seating
- MB
- looks okay until we get to the last piece which deals with the ticket pricing
  - four wheelchair accessible seats and the companion seats that go with them
  - Item #4 on Page 3, statement of 2 w/c seats and 2 companion seats at lower price and 2 w/c seats and 2 companion seats at regular price
  - need to have the ability to have 4 wheelchair users in the same location at the same lowered price, along with 4 companions
  - if seats are available
  - at the Wang, can buy wheelchair seating at every ticket price
  - so if cheap seats wanted, can be purchased
  - Schubert seating, there is no vertical access, so therefore have to offer full range of prices at the accessible seating
  - would like four wheelchair seats in the cheap seats, because if able to purchase seating in the other seating locations, can be bought, only reason for having to buy in wheelchair location is because not available for other places
- CS
- what about if 4 separate wheelchair users want cheap seats
- TH
- because can't provide seats at all seating locations, can provide cheaper seats at the accessible locations
  - thought all at one location
- MB
- limiting available seats
  - want only balcony seating, then provide pricing, if want orchestra then pay orchestra pricing
- TH
- three different locations
  - two cheaper prices and one at higher prices
- DM
- granted them variances for locations on the condition that approval of pricing policy
- WW
- to be able to do this, need equal number of accessible seating in each location
- TH
- if 12 price locations, but only 6 accessible seating locations required, can't provide each location with price locations
- KS
- if sold out, then not an option
- MB
- if there is a couple in wheelchair then cannot sit together unless at the more expensive location
  - trying to make sure that ticketing policy doesn't create problems
- CS
- allowed them to do less, on the condition that policy accepted

- wants it to read that if cheaper seats taken, then price at more expensive seats reduced to cheaper seat prices

MB - two people cannot sit together in wheelchair in the cheaper seating location

*MB - accept the policy as written, provided that should two wheelchair users want to attend a performance together at the same seating location, that there can be flexibility of the policy to accommodate those patrons*

*DM - second –*

*DM - reason for the flexibility is the need to allow for two wheelchair users to attend the performance at the same location at the same time*

*CS - would like to add to B., “provided that there are wheelchair seats at the lower rate if the other seats are not available.”*

*MB - can’t regulate policy because building code issue, have to build in flexibility, then if someone has a problem can be accommodated via regulations of ADA*

*DM - up to the petitioners to issue policy, if it becomes an issue of not following the policy, can go to MOD about the way the policy is being implemented*

*MB - need flexibility clause within the policy  
- carries with CS opposed*

20) Hearing: Recovery Center Hospital, 309 Belmont St., Worcester (V12-242)

WW - called to order at 1:05  
- introduce the Board

Charles Willse, DCAMM (CW)

Peter Pogorski, Ellen Zweig, Architect (PP)

WW - both sworn in  
- EXHIBIT 1 – AAB1-67

CW - Project manager for the project  
- started design in August 2007  
- large scope and complexity of the project  
- three primary goals, wanted to build a building that would provide the best practices for mental healthcare; 2 wanted to provide universal design and accessibility; 3, environmental design  
- 26 acres, adjoining existing Worcester State Hospital is 75 acres  
- took 4 years to construct the new building  
- over 500 people on the job at the height of the job  
- patients moved in, in the fall of 2012  
- almost full  
- still trying to resolve some issues with the Department of Public Safety, currently operating under a temporary certificate of occupancy  
- cost issue for compliance

- side slope and running slopes at walkways, full compliance would result in excessive cost without substantial benefit

PP - supplemental handout  
- two summary charts  
- added some totals

WW - EXHIBIT 2

PP - cross slope and running slope chart  
- number of panel totals (5 foot panels)  
- green is 2% or less, yellow and orange are 2-4% and red is over 4%  
- 1,032 panels, over a mile of sidewalk  
- areas of over 4% shown on map, new map also shows all areas over 2%  
- gray areas are new pavement, dark grey is existing conditions  
- up to 20 feet of fill to make the hospital level  
- 500 staff, 320 beds, 60 of which are adolescents  
- entrances need to be controlled  
- accessible parking at the main entrance, the adolescent entrance, additional temporary parking at the clock tower area, since main entrance route is currently blocked off because of existing work undergoing at the clock tower  
- all designed to be within the required cross slope and running slope  
- because the soil settled, compacted to 95%  
- contractor also going out of business, didn't get built to design at all locations  
- road to the lower level Camp Joy daycare for disabled children  
- clock tower has been removed and will be replaced  
- some locations that show a running slope that is steeper than 5%, but leads to fire doors that are only accessed by fire department  
- slight cross slope issue at the entrance door

WW - cost to make all of the corrections

CW - \$3 million  
- issue is that the only way to improve the slope in some locations would be to re-grade the area  
- hospital is under operation, 1,000 staff, and 500 staff, only 300 parking spaces for the staff and remote parking available; added construction would be difficult and result in loss of spaces  
- proposing to fix a number of locations, but fixing all would be a tremendous expense

TH - did a number of site visits  
- first site visit parked at adolescent entrance  
- was able to get around the entire site in my power chair

DM - where are the parking options for visitors?

- PP - area at the front entrance and at the adolescent main entrance, there is also existing parking that is tiered at the front of the building
- different day program entrance next to the staff entrance
  - would park at the front to visit someone in the adult or adolescent units
- PP - area in M could be used recreationally, 6 foot wide sidewalk
- MB - takes 50% more energy to push over a 3% cross slope than a 2%
- PP - recreational use at that location in M
- TH - very remote location in M
- PP - over a mile of sidewalk
- PP - D and E locations lead to a family play area and want to be corrected
- MB - explained the fill and the settling, is there an expectation that this will settle more?
- PP - not a civil engineer, but asked civil engineer same question, but could not get a straight answer
- don't think so, because they can't say/predict
- PP - first thing that was done was the fill and the pavement to create a road around the construction site and did not settle much
- susceptible to frost heaves
- MB - so don't anticipate that looking at greater variations of the cross slopes
- PP - roots will be an issue eventually, water may collect and create frost heaves
- MB - primarily recreational use for the big loop
- there is an opportunity to walk in the smaller loop in the front of the hospital
- MB - SK-2 colors
- TH - purple, magenta, blue and green
- purple – running slopes greater than 5% but along existing
  - magenta – running slope greater than 5%
  - blue - cross slope between 2.1% and 4%
  - green – greater than 4% cross slope
- PP - green areas will be corrected
- magenta areas corrected everywhere, but the locations shown on Sk-1 at E and between A and X and area M
- WW - EXHIBIT 3 Board SK-2

- MB - at parking loop closest to hospital, vast majority is 2-4% cross slope  
 - how much would it cost to fix the inner loop, since it is the only area that will provide the only option for access at the main entrance  
 - seeing substantial benefit to the interior loop of sidewalk being compliant
- CW - section T, AAB56  
 - Section R, AAB52 – can do everything over 4% cross slope
- TH - staff has to be able to walk with patients
- MB - more people are going to use the smaller loop of sidewalk
- TH - there is store within the hospital as well
- PP - average length of stay used to be multiple years, now under a year average  
 - visitors that come, principal users are staff  
 - if they are in the facility, very few visitors  
 - grounds privileges is less and less, more grounds privileges when longer stays
- MB - at T side, not so egregious; greater cross slope issues at the R side  
 - bus stop at intersection of hospital drive and the parking lot
- CS - where is the front door?  
 PP - (points to front door)
- CS - if taking the bus, what is the path of travel?  
 PP - cross walk to the sidewalk at the Q section
- CS - cost of correcting half the loop?  
 CW - no cost at this time
- CS - entrance for the youth is separate  
 CW - currently not used  
 - staff entrance, some youth can go into the IRT BERT  
 PP - will be two separate entrances in the future, but currently enter thru the main entrance
- CW - Q is adult entrance, S is youth entrance, F is staff entrance, and residential day program at the other location
- CS - *grant, as proposed, except for the blue areas at locations S, R and Q, as shown in SK-2*  
 MB - *second*  
 - *carries*

21) Hearing: Recovery Center Hospital, 309 Belmont St., Worcester (V12-242) – Cont'd

TH - need timeframe for compliance

CW - can't be done until the clock tower done

MB - currently closed off to the public

CW - area that is problematic is fenced off, except the front door  
- 3 months for the sidewalk work

MT - reconstruction of tower

CW - one year, then 3 months for sidewalk work

*DM - work done by 9/1/14*

*MT - second - carries*

22) Discussion: Founders Hall/Stebbins Hall, 21-31 Everett St., Cambridge (V12-062)

TH - affidavit from president, recorded with the registry and plans highlighted also recorded, showing the areas not open to the public  
- affidavit signed by President of the College

WW - read affidavit from President of Lesley University  
- first floor is accessible, pink areas are areas not open to the public

MB - outrageous, but complies with the requirements

*MT - accept the submitted affidavit*

*MB - second – carries with CS opposed*

23) Hearing: Arlington Street Church, 351 Boylston St., Boston (V12-270)

WW - called to order at 2:10 p.m.

Kathryn Aldrich, Boston Commission on Disability (KA)

Carl Richardson, "" (CR)

Colin McConville, Landscape Architect (CM)

Susie Nacco, Landscape Architect (SN)

Herbert Gleason, Counsel (HG)

WW - all sworn in  
- EXHIBIT 1- AAB1-29

HG - applied originally for the removal of the ramp and substituted the installation of an exterior lift  
- SN is now proposing a ramp at the Boylston Street yard

- there is presently a ramp on Boylston Street that was created when the Arlington Street Station was renovated, this leads to lower level office
- Boylston Street ramp at yard would provide access to the church level

- SN
- original proposal submitted
  - met with George Kinkcaid about the removal of the ramp; and then met with Thomas Hopkins
  - both said problem with removal of ramp and insertion of lift
  - met with the Boston Mayor's Commission on Disability and they agreed that removal of the ramp would not be preferred
  - now proposing to remove the ramp at side yard

- WW
- new plans for ramp as EXHIBIT 2
  - larger plan, as EXHIBIT 3
  - plan views, EXHIBIT 4 and 5

- SN
- 1:12 for 7 feet
  - landing is 15 inches above grade
  - more visibility with this proposal
  - closer to the MBTA stop as well and closer to accessible parking spaces
  - if approved by the Board then will go before the Landmarks commission
  - will comply in full
  - need to get around the tree root balls, but will be done

- TH
- landmarks wanted to get rid of the ramp period, so unsure if a more prominent location will be allowed by them

- MB
- we do not approve of a lift, but do approve of the new ramp design
  - where does the ramp enter?

- HG
- page 20 in the original submission
  - comes right into vestibule of the church

- SN
- will have to build new stairs over the existing stairs
  - other ramp covered the other stairs
  - design proposes to build the stairs into the existing stone works

- CS
- what material for the ramp?

- SN
- going between steel and need for footings, final details are not in place, but can be worked out

- MT
- materials used?

- SN
- really don't want to use wood, but may have to use wood for stairs, would like to use textured stone; researching the type of materials used
  - shiny granite wall around the church
  - drew to accentuate to make the church stand out



- want people to know it's there but not make it to stand out

HG - ramp that was installed with the MBTA project is very similar to this proposed ramp  
- another ramp similar at Church of the Covenant

KA - in support of this option  
- only question is about the timeline

SN - need to talk about timeframe, since the ramp needs to be removed  
- ramp into the office; can get to sanctuary from office location

KA - technically compliant but not ideal

CS - ramp to the office?

MB - is intent to take down the existing ramp prior to the completion of the new ramp

SN - would like to take down the old ramp prior to the completion of the new ramp  
- depending on when landmarks makes a decision; then will move on the removal of the back, once all permits in place for the work at the front ramp  
- but will still have ramp to the office

WW - application was for the lift

*DM - deny the use of a lift at the exterior*

*MB - second – carries*

*DM - approve option B for the ramp shown in Exhibits 2-5*

*MB - second – carries*

*DM - current ramp stays in place until new ramp is completed, or a timeframe is submitted for plans for the ramps and the removal of the rear ramp; would also like to see decision from landmarks;*

*MB - second*

*- would like progress reports*

*DM - amend motion to include progress reports, quarterly, starting 6/1/13*

*MB - second*

*CS - would like more information regarding alternate route at the interior*  
*- carries*

*DM - get additional information, with a site plan, to know where the current ramp and lift inside the building, along with photographs, to be submitted by 3/1/13*

*CS - second*

*- carries*

SN - only worry is that there are huge problems with the existing ramp at the rear

CR - Acting Chair of Commission will go on record in support of this proposal for the ramp

24) Advisory Opinion: 521 CMR 39.1, South Boston Fan Pier

TH - question comes on the elevator controls  
- 39 says controls and mechanisms along route, part of accessible feature,  
- requirement for controls to be 18 inches from the corner  
- alternating levels of clearance to the buttons for the elevator controls  
- there are other elevators, this is “sort of” a service elevator  
- in 521 CMR 28, don’t call out the 18 inches to the corner, but this is a control along the accessible routes

*MB - controls language, 521 CMR 39, is applicable to elevator call buttons*

*DM - second – carries*

TH - Petitioner stated that the controls within the elevator are not 18” from the corner  
- told him that this was under the control of 28

MB - controls at the interior are at either side  
- definitely under 39 for the call buttons

\*\*\* No more Diane McLeod \*\*\*

25) Hearing: Multi-Use Building, 284 Newbury St., Boston (V13-009)

WW - called to order at 3 p.m.  
- introduce the Board

Matthew Joyce, The Wilder Companies (MJ)

Kelli Burke, The Wilder Companies (KB)

Avi Shos, SN Consulting Group (AS)

Kevin Nice, SN Consulting Group (KN)

Kathryn Aldrich, Boston Disability Commission (KA)

WW - all sworn in  
- EXHIBIT 1- AAB1-54

MJ - Wilder Companies is the owner and operator of the building  
- located at the corner of Newbury and Gloucester Street  
- four entrances, one is accessible

- landlord and new tenant “The Frye Boot Company” have entered into a 12 year lease, and will occupy basement, first and second floor
- basement and first floors will be storage only
- for 22+ years, a restaurant occupied the basement and first floor of the building
- in that time, there was successful use of the rear accessible entrance
- prior to submittal of application, met preliminarily with Thomas Hopkins
- submitted variance application
- as part of the meeting, conducted ADA audit of the building, conducted by SN Consulting
- amended the application with Attachment A as a clarification of question 7 and 9, dated January 21, 2013 (AAB9)
- additional amendment on January 30, 2013 (AAB2)

- KN
- AAB19-21 shows the parcel
  - photos of the separate entrances, office entrance with elevator lobby, one Newbury street entrance, two Gloucester street entrances
  - accessible entrance at the rear with access via the adjacent alley
  - at Gloucester Street entrances, handrails are one issue, stairs go right to the property line, so cannot provide extensions
  - landings are smaller than required
  - there are small nosing issues
  - doors at Gloucester Street are only 32”
  - at the accessible route, there is an easement over the property line, with a rail at one side, but not at the other side since it is owned
  - all public entrances will have signage about the accessible entrance and how to get to the accessible entrance

- MB
- what is the existing slope?

KN - it is a ramp

MT - AAB4, states “approximate slope of 5.7% with a few small sections at 8%”

- MB
- length of run of the route?

AS - approximately 20-30 feet

- AS
- the interior stairs will not be used by public, will be used for employees only

- KN
- everything at the lower level is storage
  - the most recent amendment is just a combined item, taking out all of the items that are proposed to be fixed

- CS
- route to accessible entrance

- AS
- street level is between the two levels, basement and first floor
  - new signage directing to the accessible entrance
  - go down alley to the ramp to the accessible entrance

CS - brings you to where?

AS - interior hallway that brings you to interior hallway that leads to elevator and accessible toilet rooms

CS - well lit?

AS - there is lighting, but not as well lit as street

CS - who maintains the public alley for snow removal?

MJ - maintain the sidewalk of the entire block, including the rear ramp and the public alley to get there

CS - would like signage at street level

KN - railing at the property along the sidewalk

CS - would like to see it at the entrance, but at the sidewalk level  
- would also like to see map at the signage  
- elevator is open when the building is in use?

AS - yes, and the elevator complies in full

MB - would like to see signage at the accessible entrance that says what the business is in that location  
- what is the hallway like at the interior

AS - the hallways are being remediated to look much nicer

KN - a number of changes are occurring here

MJ - at the rear accessible entrance, there will also be a video and audio intercom system to the retailer

MB - if there is a problem, but it will be open and accessible during the same hours that the store is open  
MJ - yes

KA - no doors along the hallway, locked along the interior to prevent access to the elevator

KN - no, there is another door, but it will be open during business hours  
- common elevator lobby and door to store in same location, call button and intercom at that location as well

CS - *grant the variance for lack of access (25.1) at the Newbury St and Gloucester St entrances (3 in total), on the condition that signage is posted at each inaccessible entrance to the building, the alley is well lit, clear, and well maintained; with a signage for the tenants at the accessible entrance, which can be seen from*

*the alley, elevator area is also well lit; all doors along that accessible route to the tenant spaces shall remain open during business hours*

*MB - second – carries*

*MB - grant the variance for the three inaccessible entrances*

*KS - already dealt with as a whole in the overall motion for 25.1*

MB - need more information about the lack of compliance at the landings

KN - they do vary, but within certain limits, all approximately 36 inches

*MB - grant the variance for the lack of landings at the entrance door (25.2)*

*MT - second – carries*

MB - treads and risers uniform

KN - yes, but will be mediated to prevent water build up

MB - nosings measurements

AS - aren't that extreme, but are integral to the existing stone stairs  
- will expose the seam if the nosing cut off

*MB - grant variances for all three inaccessible nosings at the stairs (27.3)*

*MT - second – carries*

MB - handrails at inaccessible entrances

- what are the heights?

AS - heights are compliant; they are continuous to a degree

KN - there is one point at the Newbury St., entrance railings where the railing height does not comply

AS - but could grab the newel posts to overcome that height of the stairs

- not sure if original to the building, but integral to the other iron accents on the building and those adjacent

*MB - grant relief for all three handrails, based on tech. infeasibility, exc. cost without benefit and historic nature (27.4.3)*

*MT - second – carries*

MB - door widths

*MB - grant door widths (26.4), exc. cost without benefit*

*CS - second – carries*

TH - can thumb latch be disengaged?

AS - yes and is proposed

MB - *Grant on the condition that the thumb latch is disengaged at all doors to inaccessible entrances (26.11), exc. cost without benefit*

MT - *second – carries*

WW - ramp handrail at the accessible entrance

MB - testimony is that the second handrail is out of the property line, under an easement agreement,

AS - can't impede on the easement

TH - they intend to fix the existing handrail

MB - *grant relief for the lack of providing the second handrail (24.5.2), based on tech. infeasibility, on the condition that the existing handrail is upgraded to comply in full*

CS - *second - carries*

TH - winder issue, even though employee only area, but it is a public safety issue

CS - where do the stairs lead too?

AS - to the boot storage area

MB - *no variance is required for the interior winder stairs, based on the testimony that they are employee only space, with the understanding that a variance will be required if the occupancy and use changes for these stairs*

RG - *second – carries*

## 26) Hearing: Multi-Use Building, 284 Newbury St., Boston (V13-009) – Cont'd

CS - *all of the conditions be implemented prior to the tenant opens for business, with both written and photographic evidence to be submitted to the Board*

MB - *second – carries*

## 27) Incoming Discussion: New Pizza Shop, 352 Hanover St., Boston (V13-002)

TH - granted them relief for the lack of level landing to have a sloped 1:12 entrance landing

- site visit done

- took out the brick and extended the glass down

- owner argued that structurally supporting the front entrance

- handwritten note from owner, proposing to not install powered opener

MB - *deny, and reaffirm the decision to grant the lack of a level landing on the condition that 1:12 sloped entrance and power-assisted or automatic door opener provided, located at the sidewalk level*

CS - *second - carries*

28) Discussion: Station Landing, 16-18 Willow St., Melrose (Apt. 103)

TH - note from current owner, would like to know if the bank can take the money from his payments into an escrow account to build the required garage

- received today

- Building Inspector is holding occupancy for this unit

CS - *motion to deny the request of the proposed owner*

MB - *second - carries*

29) Discussion: DeLuca's Market, 7-17 Charles St., Boston (V11-232)

TH - Virgil Aiello came in and delivered four stamped plans for the LULA and the bathroom

- wine cellar is open

- was told by Mr. Aiello that the computer is now in place

- change in level at the stair areas

- also got email from Michelle Schneider, Chief of Staff for City Councilor Michael Ross

- requested copy of any updated plans

- standing plans for LULA in different location and bathroom at first floor

- LULA location has changed and bathroom at the basement level

- nothing has been put in writing about new proposal

CS - no vertical access right now

TH - based on what was previously approved, should have contract documents and check for deposit for the LULA

- standing order is that the store can't be opened until the LULA and bathroom are in place

KS - read decision sent out most recently

TH - read February 1, 2013 decision

MB - having the opportunity to look at this plan, would not accept it

- unless he can explain in writing why the plan should be accepted, will not accept the newly submitted plan

*MB - in receipt of the plans dropped off at approximately 11 a.m. on February 11, 2013, however, the plans were dropped off without written explanation of the proposal, no visual documentation of computer being in place; therefore, please be advised that the market will not be able to open without a means of compliant vertical access to the lower level and throughout the lower level, and the accessible toilet room.*

RG - *second – carries*

CS - *motion to require proof that the computer system is up and functioning that the wine cellar shall be closed*

*TH - already in the previous decision of the Board*

*MB - written explanation of plans recently submitted to be submitted to the Board by February 23, 2013 and expedite decision*

*TH - hearing scheduled for April 22, 2013*

*CS - do not approve submitted plans, have to present testimony at the scheduled April 22, 2013 hearing*

*MB - reaffirming the January 28, 2013 that without proof of the system being in and functioning, the system will be closed by February 15, 2013*

*CS - second – carries*

*MB - expedite*

*RG - second – carries*

*- End of Meeting -*